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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MICHAEL ANTHONY DEAN

Appeal 2009-011376
Application 10/803,551
Technology Center 2100

Before KRISTEN L. DROESCH, KALYAN K. DESHPANDE, and ERIC B.
CHEN, *Administrative Patent Judges*.

DESHPANDE, *Administrative Patent Judge*.

DECISION ON REQUEST FOR REHEARING

The Appellant filed a Request for Rehearing under 37 CFR § 41.52 on July 28, 2011. The Examiner rejected claims 1-15 under 35 U.S.C § 102(b) as being anticipated by Wical. We affirmed these rejections in our June 3, 2011 Decision. The Appellant seeks reconsideration of the Decision affirming these rejections.

We DENY the REQUEST FOR REHEARING.

ISSUES

The issue pertinent to this request is whether the Appellant has sustained their burden of showing that we misapprehended the art or the claims and thus erred in sustaining the rejections of claims 1-15. 37 C.F.R. 41.52(a)(1).

ANALYSIS

We found in our Decision that the Examiner did not err in rejecting claims 1-15 under 35 U.S.C. § 102(b) as anticipated by Wical. Decision 9.

The Appellant first contends that we did not address the Appellant's argument that Wical's documents "are clearly not processed as 'structured resources' at all because Wical processes a document irrespective of the document's structure or lack of structure." Request 5. We disagree with the Appellant. The Appellant's argument that Wical's documents are not "processed" as structured resources is based on an implicit requirement that the "processing" of documents include the steps outlined in limitations [1] – [6] of claim 1. That is, the "processing" of a document requires the steps of parsing, comparing, identifying, obtaining, and summarizing. In the Decision, we addressed whether Wical describes the steps of parsing, comparing, identifying, obtaining, and summarizing in finding that Wical

describes limitations [1] – [6] of claim 1. Decision 5-8. Furthermore, we found that we agreed with the Examiner’s construction of a “Semantic Web structured resource,” which does not require any specific structure to the resource. Decision 5. As such, we do not agree with the Appellant that the Decision does not address this argument.

The Appellant also contends we misapprehended Wical’s description of theme vectors that are generated from documents as the claimed structured documents, as opposed to the documents having theme vectors. Request 5. We disagree with the Appellant. We found in our Decision Wical describes documents that have theme vectors, i.e. each document has a theme vector associated to the document. Decision 6-7. The Appellant’s argument, in essence, is attempting to distinguish documents having a theme vector from theme vectors associated to documents. Request 5. However, the Appellant neither provides sufficient rationale as to how these features are distinguished from each other nor provides sufficient rationale as to how the claimed invention is distinguished from Wical because of this distinction. As such, we do not agree with the Appellant that we misapprehended the disclosure Wical.

The Appellant additionally contends that we erred in our Decision for concluding that document themes and the organization and categorization of themes describe component words. Request 5-6. We disagree with the Appellant. We begin by pointing out that we found that terms are parsed from documents to generate document themes and as such the themes are component words. Decision 6-7. We further provided the example that the terms computer software and relational databases are components words associated to the statement of “Oracle 7.” Decision 7. As such, it is clear from our Decision that the themes are

component words. The organization and categorization of the document themes further define the structure of the document themes.

The Appellant further contends that we erred in our Decision for concluding that Wical anticipates constructing an index from the component words. Request 6. We disagree with the Appellant. In our Decision, we found that the categorization, classification, and organization of themes in a hierarchical format in a knowledge base is the same as an index relating component words to statements. Decision 7. The Appellant argues that this is not the same as the claimed invention (Request 6), but fails to provide persuasive rationale or evidence to distinguish this disclosure of Wical from the claimed invention. Specifically, the Appellant generally alleges that Wical's hierarchical classification scheme simply relates categories to one another, but not to "statements." However, the Appellant fails to provide persuasive rationale to distinguish Wical's hierarchical index of themes or categories parsed from statements from the claimed invention. As such, the Appellant's argument is nothing more than a general allegation of patentability. The Appellant is reminded that "[i]t is not the function of this court to examine the claims in greater detail than argued by an appellant, looking for nonobvious distinctions over the prior art." *In re Baxter Travenol Labs*, 952 F.2d 388, 391 (Fed. Cir. 1991). *See also In re Wiseman*, 596 F.2d 1019, 1022 (CCPA 1979) (arguments must first be presented to the board). A general allegation that the art does not teach any of the claim limitations is no more than merely pointing out the claim limitations. A statement which merely points out what a claim recites will not be considered an argument for separate patentability of the claim. 37 C.F.R. § 41.37(c)(1)(vii).

The Appellant also contends that we erred in our Decision for concluding that Figure 3 describes a literal value of "2". Request 7. The Appellant specifically

argues that Wical describes that the value of “2” indicates two documents were classified in the category of gaming industry and therefore is not a “literal value of said related ones of said statements.” Request 7. We disagree with the Appellant. Limitation [5] only requires the “literal values of said related ones of said statements.” Limitation [5] does not further limit the scope and meaning of the term “literal values.” As such, in our Decision we found that a literal value to encompass the literal value of “2” to be related to the statement of “gaming industry.” Decision 8. The Appellant has again failed to provide persuasive rationale to distinguish Wical’s description from the claimed invention.

The Appellant additionally contends that we failed to address the argument that Wical fails to describe “summarizing said predicates, instances, and types, and literal values for presentation to a user as said search results.” Request 7. We disagree with the Appellant. As discussed in our Decision, Wical’s Fig. 3 describes a summary for presentation to a user. Decision 6-8. The Appellant agrees that Wical at least describes presenting summary information to a user by citing to Wical 10:14-16. Request 7. As such, we do not agree with the Appellant that we overlooked or misapprehended Wical to describe this feature.

The Appellant further contends that we erroneously overlooked Wical’s disclosure of documents are presented relative to the classification system and therefore erred in concluding that Wical describes “predicates, instances, types of said instances, and literal values of said related ones of said statements.” Request 7. The Appellant specifically argues that the different categories in Wical’s classification system scheme are at most subjects. Request 7. We disagree with the Appellant. We found that Wical explicitly provides a relationship between the terms such that the terms are related and are not just simply presented in a hierarchical manner. Decision 7-8. The Appellant is directed to the discussion in

the Decision at pages 7-8, as our analysis articulates the relationship between the terms (e.g., a query of the terms “Legal,” “Betting,” and “China” generates related terms, such as “Government,” “Casino,” and “Asia”).

The Appellant also contends that we erred in concluding that Wical anticipates “presenting said gathered statements for parsing.” Request 8. The Appellant specifically argues that our finding that the discussion on parsing statements at Decision 6-7 did not address the Appellant’s contention with respect to claim 3. Request 8. We disagree with the Appellant. We found that the analysis of claim 1 included an analysis of the limitation to parse statements from a resource and claim 3 similarly required gathering statements from a resource and presenting those statements for parsing. Decision 6-8. The Appellant fails to present sufficient rationale in the Request that illustrates how this analysis is inadequate other than merely stating that claim 3 requires additional limitations. Furthermore, the Appellant in the Appeal Brief argues that claim 1 requires that the resources are presented with statements, whereas claim 3 requires that a parser is presented with statements. Claim 1 makes no such requirement. Claim 1 merely requires the parsing of statements and does not specifically require a specific entity to perform the parsing. As such, the Appellant’s argument is not found to be persuasive since it is not commensurate in scope with the claimed invention.

The Appellant further contends that the we failed to heed to the differences cited by the Appellant, including the arguments that the present invention “provides an alternative to simply collecting and indexing entire on structured resources” because “Semantic Web resources can provide information in a structure that describes and separates the portions of the resource...using specific, associated statements” and therefore erred in concluding that Wical anticipates the claimed invention. Request 8. We disagree with the Appellant. This argument is,

in essence, a summary of the claimed invention. This argument does not provide persuasive evidence or rationale to distinguish the claimed invention from Wical. As discussed *supra*, a statement which merely points out what a claim recites will not be considered an argument for separate patentability of the claim.

For the above reasons we are not convinced of reversible error in our Decision. Accordingly, the Appellant's Request for Rehearing is denied.

DECISION

To summarize, our decision is as follows:

- We have considered the REQUEST FOR REHEARING.
- We DENY the request that we reverse the Examiner as to claims 1-15.
 - The rejection of claims 1-15 under 35 U.S.C. § 102(b) as anticipated by Wical is sustained.

REHEARING DENIED

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